The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The assistant legislative clerk read as follows:

CLOTURE MOTION

We the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close debate on the motion to proceed to Calendar No. 105, S. 830, the FDA reform bill.

Trent Lott; Jim Jeffords; Pat Roberts; Kay Bailey Hutchison; Tim Hutchinson; Conrad Burns; Chuck Hagel; Jon Kyl; Rod Grams; Pete Domenici; Ted Stevens; Christopher Bond; Strom Thurmond; Judd Gregg; Don Nickles; and Paul Coverdell.

Mr. LOTT. I withdraw the motion to proceed.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LOTT. For the information of all Senators, I regret that the cloture motion is necessary at this time. I understand all of the interested parties were in agreement just prior to the recess. In fact, I stayed very close to the members of the committee that reported this legislation and to those who have continued to work to try to work out remaining disagreements, including Senator JEFFORDS, Senator MACK, Senator FRIST, others on this side of the aisle, as well as Senator DODD and Senator MIKULSKI.

This is truly a bipartisan issue and one we certainly should take up and finish before we go out at the end of this year.

When you talk about quality of life for Americans, certainly having a reformed Food and Drug Administration would be in their interest. Too many procedures, pharmaceuticals, and medical devices are delayed, hung up by bureaucracy. What we need is an expedited process, the reforms that are necessary to make that happen, and safe procedures for the American people.

I hope we can get this done. The only objection I know of was one that has been lodged by Senator KENNEDY. We thought we had the agreement all worked out the last week we were in session. At the last minute, there seemed to be some further objection. As a matter of fact, I had hoped over the last 2 weeks before we went out the 1st of August for our State work period that we could get this agreed to. Now there is apparently some disagreement with regard to cosmetics. I would think this legislation is much more important than some remaining small disagreement in this area.

So as a result of filing this cloture motion, a cloture vote will occur on Friday, September 5 in the morning unless something is worked out in the meantime. I will consult with the Democratic leader and all the Senators involved on both sides of the aisle as to how we can proceed. We need to get this done.

By the way, this is on the motion to proceed. It looks like we will have a filibuster even on the motion to proceed. I am committed to this. If we have to have a cloture on the motion to proceed, if we have to have more than one, if we have to have cloture on the bill itself, whatever is necessary, I feel that we should force this to an action.

However, I do ask unanimous consent the mandatory quorum under rule XXII be waived at this time.

The PRESIDING OFFICER. Without objection, it is so ordered.

MORNING BUSINESS

Mr. LOTT. Mr. President, I ask unanimous consent there now be a period for the transaction of morning business with Senators permitted to speak for up to 5 minutes each, with the exception of Senators HUTCHISON of Texas and ROBERTS.

The PRESIDING OFFICER. Without objection, it is so ordered.

TRIBAL SOVEREIGN IMMUNITY

Mr. GORTON. Mr. President, on October 25, 1994, Jered Gamache lost his life, and his brother, Andy, was seriously injured on their way home from school when a Yakama tribal police officer, driving at 68 miles per hour, ran through a red light and crashed into their truck. Jered was 18 and Andy was 16. Despite the loss of Jered's life and the injuries to Andrew, the Gamache family has been totally unable to seek damages against the Yakama tribal government for the actions of its police officer.

Now, let us compare this situation, Mr. President, to the case of Abner Louima, the Haitian immigrant who was brutalized a few weeks ago by New York City police officers. According to the New York Times, in addition to the ongoing criminal investigation, Mr. Louima's attorneys are planning to file a $465 million civil damage suit against New York City.

Now, Mr. President, what makes the case of Jered and Andy Gamache different from the case of Abner Louima? The answer is simple: Tribal sovereign immunity. Unlike New York City, the Yakama tribal government can claim immunity from any civil lawsuit, including suits involving public safety and bodily harm, in both State and Federal courts. As a consequence, the lawyers retained by the Gamache family have told them it is pointless to bring any kind of lawsuit. They have no recourse.

New York City does not have sovereign immunity, and thus, of course, is subject to a lawsuit in any amount of money on the part of victims of malfeasance, on the part of members of its police department.

A few weeks ago, up until the present time, the New York Times has run articles and editorials showcasing the Louima case as an example of police brutality and the need for permanent reform. While that case has sparked outrage from editorialists in New York and elsewhere, last Sunday the New York Times vilified my efforts to provide exactly the same avenue for relief to the Gamache family as the New York Times eloquently advocates for Mr. Louima. The New York Times has decided that while it is unacceptable for New York City to brutalize a person, it rejects non-Indians' right to bring similar claims against tribal police agencies in the U.S. courts. So we have 18- and 16-year-old victims who have no recourse.

Enormous injustices can be done whenever a technical claim can prevent the adjudication of a just claim on the part of an individual against a government. It is for exactly that reason that the doctrine of sovereign immunity was long ago dropped by the Federal Government and the State government in cases of this nature.

Let us consider another case, Mr. President, the case of Sally Matsch. When she was fired from an American Indian casino in Minnesota she felt that she was a victim of age discrimination, so she sued the Prairie Island Indian Tribe. The tribe, however, invoked its sovereign immunity against lawsuits in State or Federal courts, and her case was heard by an Indian court on the second floor of the casino and was dismissed amid the sounds of slot machines by a judge who served at the pleasure of the tribal council that ran the casino.

Seventeen years ago I was attorney general of the State of Washington. I brought a lawsuit that asserted the right of the State of Washington to tax the sale of cigarettes in Indian smoke shops to non-Indians. The Supreme Court of the United States upheld our position that those sales were taxable. For all practical purposes, however, in the 17 years since that time, States have been unable to enforce a right that the Supreme Court of the United States said they had because they cannot sue the tribe or the tribal business entities in order to collect those taxes or to enforce their collection. Why? Tribal sovereign immunity.

Barbara Lindsey, Mr. President, is president of an organization of Puget Sound beach property owners in Washington State. In 1989, 16 Indian tribes sued those property owners in the State of Washington claiming that ''treaty rights'' gave them the right to enter private property to remove clams and oysters. A Federal district court in large measure has accepted that claim, but Barbara Lindsey and the thousands of property owners she represents, Mr. President, cannot sue the Indian tribes for violations of their property rights, even in cases when those violations are obvious and open. The problem? Tribal sovereign immunity.

So, Mr. President, this body will debate next week when it debates the Interior appropriations bill a provision that for a period of 1 year, as a rider on the appropriations bill, requires the waiver of tribal sovereign immunity on the part of those tribes—and I believe